



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Attn: DIRECTOR OF
GROUP ART UNIT 2827**

Takeshi KURIBAYASHI et al. : **Confirmation No. 7635**

Serial No. 09/881,672 : **Group Art Unit 2827**

Filed June 18, 2001 : **Examiner J. Norris**

ELECTRONIC COMPONENT AND : **Docket No. 2001_0771**
MOUNTING METHOD AND APPARATUS
THEREOF

PETITION TO THE DIRECTOR OF TECHNOLOGY CENTER 2820
FROM THE FINAL DECISION REQUIRING RESTRICTION (37 CFR 1.144)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for review of the restriction requirement, which was made final in the Office Action of July 25, 2002. Note that the requirement for restriction was traversed in the response filed on March 15, 2002. Also, reconsideration of the Examiner's restriction requirement was requested on November 6, 2002.

It is submitted that the requirement for restriction between Inventions I, II and III is improper for the following reasons:

MPEP 803.01 specifies that there are two criteria for a proper restriction requirement:

- A. the inventions must be independent or distinct as claimed; and
- B. there must be a serious burden on the Examiner if restriction is required.

Therefore, if the search and examination of an entire application can be performed without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In this case, there is no serious burden because the search and examination of claims 26-47 was previously conducted in the parent application (i.e. Serial No. 09/319,779). In particular, claims 26-47 correspond to claims 46-51, 53, and 55-72, respectively, and the merits of these claims were examined in the parent application.

The Examiner responded to the traversal of March 15, 2002 by stating that:

"The traversal is on the ground(s) that there is no burden to the examiner because the claims were considered in the parent application. This is not found persuasive because the claims in the present application are not identical in scope to the claims in the parent application. As a proper examination of the application relies on searching the claims (not just the disclosed invention), a burden exists. "

In the response filed November 6, 2002 the Examiner was requested to reconsider the requirement because the claims, which were withdrawn by the Examiner, are identical to claims that were considered in the parent application. This fact should have effectively rebutted the Examiner's position that "the claims in the present application are not identical in scope to the claims in the parent application." However, the Examiner did not response to this request for reconsideration.

Since an examination on the merits of each of the above-identified inventions was conducted in the parent application, and such examination presumably included a complete search of the subject matter of the claims, it is submitted that there can be no "serious burden" in considering all of claims 26-47 in the present application.

In view of the above, the Director is respectfully requested to direct the Examiner to withdraw the restriction requirement, and proceed with an examination on the merits of the application as claimed in claims 26-47.

Respectfully submitted,

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